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342-345

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 10th August, 1998

PRESENT

THE HON'BLE Mr R.P.SETHI , CHIEF JUSTICE

AND

THE HON'BLE Mr JUSTICE K.R.PRASADA RAO

Writ Appeal Nos- 2320 & 2321 of 1998

Between :

M/s Vishweswaraiiah Iron & Steel
Ltd., (A subsidiary of Steel
Authority of India) Bhadravathi,
represented by its Chairman &
Managing Director, Shimoga
District

: Appellant
(common in both
WAs)

(By Sri B.C. Prabhakar, Advocate)

A n d :

1. M.Rama Rao,s/o Sri
M.Shankar Rao, Circuit
House Road, Shimoga

2. Presiding Officer ,
Labour court, Mangalore

: Respondents
(common in both
WAs)

(Smt. Sheela Krishnaiah, Advocate, for R.1)

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W.As filed u/s 4 of the Karnataka High Court Act
praying to set aside the order dated 12.2.1998 in
W.P .Nos.7049/90 and 9118/90 .

These appeals coming on for preliminary hearing this day, Chief Justice delivered the following :

J U D G M E N T

We have heard the learned counsel for the parties and perused the record. No ground is made out to interfere either with the award of the Labour court or the order of the learned single Judge which is based upon proper appreciation of evidence and the relevant provisions of law holding that the charges framed against the respondent-workman were not proved, but under the circumstances of the case depriving him 25% of the backwages vide the order impugned in these appeals .

The learned counsel appearing for the appellant has vehemently argued that the Labour court was not justified in disturbing the finding of fact arrived at by the Enquiry Officer allegedly on the basis of hypothesis and assumed contradictions. We do not agree with the submission of the learned counsel in this behalf inasmuch as the Labour court after referring to various circumstances and aspects of the evidence lead in the case concluded :

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" For the reasons stated above, I have come to the conclusion that the evidence placed during the enquiry is not sufficient to come

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to the conclusion that the charges levelled against the first party have been proved. Therefore, the conclusion reached by the Enquiry Officer are perverse. In that view of the matter it must be held that the second party has failed to prove the charge levelled against the first party."

The finding returned by the Labour Court cannot be termed either to be perverse or based upon no evidence . Alleged wrong appreciation of evidence cannot be made a basis for disturbing the finding arrived at by the Labour court . In exercise of the jurisdiction under Article 226 of the Constitution of India, this court does not assume the power of the appellate court .

We also do not agree with the submission of the learned counsel for the appellant that in the circumstances of the case the Labour court and the learned single Judge were not justified in directing reinstatement of the respondent-workman . On proof of the fact that the respondent was not guilty of misconduct, he was entitled to be reinstated as if there did not exist any order of



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dismissal against him and entitled to all consequential benefits. However, the learned single Judge, purportedly in the peculiar facts and circumstances of the case deprived him of 25% of backwages regarding which the workman has not complained and we also confirm the direction of the learned single Judge in this regard.

No merit. Dismissed.

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Sd/-
Chief Justice



Sd/-
JUDGE